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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/629,737	07/30/2003	Masato Yamada	SUG-169-USAP	8922
28892	7590	09/10/2004	EXAMINER	
SNIDER & ASSOCIATES P. O. BOX 27613 WASHINGTON, DC 20038-7613				LEWIS, MONICA
		ART UNIT		PAPER NUMBER
		2822		

DATE MAILED: 09/10/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/629,737	YAMADA ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Monica Lewis	2822	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 30 days MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 30 July 2003.
- 2a) This action is **FINAL**.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-52 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) \_\_\_\_\_ is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) 1-52 are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____ .  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ .   | 6) <input type="checkbox"/> Other: _____ .                                  |

## **DETAILED ACTION**

1. This restriction is in response to the application filed November 26, 2003.

### ***Election/Restrictions***

2. This application contains claims directed to the following patentably distinct species of the claimed invention:

Embodiment I (Claims 1, 2, 4, 6, 8, 10, 12, 14, 16 ,18, 20, 22, 24, 26, 28, 30, 32, 34, 36, 38, 40, 42, 44 and 46), directed to a light emitting device, a pseudo-continuous spectrum obtained by synthesizing a plurality of emissions differing in peak wavelength so as to ensure an effective wavelength showing an emission intensity of 5% or more of a reference intensity over a wavelength region of 50 nm or more, the light having a pseudo-continuous spectrum is visible light;

Embodiment II (Claims 1, 3, 5, 7, 9, 11, 13, 15, 17, 19, 21, 23, 25, 27, 29, 33, 39 and 41), directed to a light emitting device, a pseudo-continuous spectrum obtained by synthesizing a plurality of emissions differing in peak wavelength so as to ensure an effective wavelength showing an emission intensity of 5% or more of a reference intensity over a wavelength region of 50 nm or more, having a double hetero light emitting layer composed of compound semiconductors, an active layer and the emission output is ascribable to a combination of light emission from the individual emission unit layers;

Embodiment III (Claims 1 and 31), directed to a light emitting device, a pseudo-continuous spectrum obtained by synthesizing a plurality of emissions differing in peak wavelength so as to ensure an effective wavelength showing an emission intensity of 5% or more of a reference intensity over a wavelength region of 50 nm or more, wherein the pseudo-continuous spectrum is obtained as a broad continuous spectrum having only a single peak over the effective wavelength region;

Embodiment IV (Claims 1, 35 and 37), directed to a light emitting device, a pseudo-continuous spectrum obtained by synthesizing a plurality of emissions differing in peak wavelength so as to ensure an effective wavelength showing an emission intensity of 5% or more of a reference intensity over a wavelength region of 50 nm or more, wherein the intensity distribution is determined so that the predetermined wavelength is designed as a color rendering wavelength region in which the color rendering properties are enhanced;

Embodiment V (Claims 1 and 43), directed to a light emitting device, a pseudo-continuous spectrum obtained by synthesizing a plurality of emissions differing in peak wavelength so as to ensure an effective wavelength showing an emission intensity of 5% or more of a reference intensity over a wavelength region of 50 nm or more, wherein the spectrum contains no infrared emission components having a wavelength of 710 nm or longer; and

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Embodiment VI (Claims 1 and 47-52), directed to a light emitting device, a pseudo-continuous spectrum obtained by synthesizing a plurality of emissions differing in peak wavelength so as to ensure an effective wavelength showing an emission intensity of 5% or more of a reference intensity over a wavelength region of 50 nm or more, a power supply portion for supplying emission drive power.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, none are generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the

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prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

3. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee under 37 CFR 1.17(i).

***Conclusion***

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Monica Lewis whose telephone number is 571-272-1838. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Amir Zarabian can be reached on 571-272-1852. The fax phone number for the organization where this application or proceeding is assigned is 703-308-7722 for regular and after final communications. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0956.



**Mary Wilczewski  
Primary Examiner**

ML

August 30, 2004